



# Fort McDowell Yavapai Nation

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July 14, 2014

The Honorable Jon Tester  
Chairman  
U.S. Senate Committee on Indian Affairs  
838 Hart Senate Russell Building  
Washington, D.C. 50510

And

The Honorable John Barrasso  
Ranking Member  
U.S. Senate Committee on Indian Affairs  
838 Hart Senate Russell Building  
Washington, D.C. 50510

Dear Senators Tester and Barrasso:

On behalf of the Fort McDowell Yavapai Nation ("Fort McDowell"), I am writing in advance of the July 23, 2014 hearing on Indian Gaming Regulatory Act ("IGRA") to share with you Fort McDowell's concerns about gaming by Indian tribes away from traditional reservations. We are experiencing such a circumstance in Arizona, where the Tohono O'odham Nation purchased land more than a hundred miles from its tribal headquarters and on which it intends to build a casino. Our objections to their actions are manifold.

## **Violates tribal commitments to voters**

To achieve approval of the current gaming compacts, Arizona tribes first negotiated with then Arizona Governor Jane Hull, then after failing to gain legislative approval conducted an enormously difficult and expensive initiative campaign in 2002. Among the many public commitments Arizona tribes made to gain voter passage of that initiative was a promise to limit the number of casinos in the Phoenix metro area to seven, the same number in operation at that time. The proposed West Valley Resort and Casino violates that promise, and would create significant and perhaps insurmountable credibility issues for tribes in all future endeavors requiring political approvals.

### **Threatens the structure and stability of tribal gaming in Arizona**

The 2003 compacts were the culmination of three years of negotiations among Arizona tribes, and between the tribes and the State of Arizona. The limitations on the number of casinos, size of casinos, kinds and numbers of games, etc. were the product of long and frequently contentious negotiations. In the end, participating tribes achieved a balance that all could agree to, and created a positive business environment for every Arizona tribe's gaming enterprise. In addition to creating a competitive balance among Arizona gaming tribes, the compact also created a revenue stream for non-gaming Arizona tribes through the machine rights transfer mechanism. It also provided for tribal revenue-sharing with the state and local governments in exchange for tribal exclusivity for casino gaming. The approval for gaming at the Glendale site puts all of these achievements at risk.

By upsetting the balance that was painstakingly achieved in the current compacts, numerous tribes would be negatively affected. All four Phoenix area tribes would experience significant reductions in gaming revenue, as would tribes outside the Phoenix area that none the less draw considerable patronage from Phoenix area residents. Furthermore, by putting at risk tribal exclusivity for gaming, a casino in Glendale would threaten the existing revenue streams that tribes in remote regions of the state currently receive through the transfer of their machine rights to tribes located in larger markets.

A Tohono O'odham casino in Glendale is viewed by many legislators and other state leaders as both a violation of the current compact and the de facto expansion of gaming off of existing Indian reservations, in addition to the breaching of a promise tribes made to Arizona voters in 2002 to build no additional casinos in the Phoenix area. Numerous non-tribal gaming interests have sought the right to open off-reservation casinos in the state, which would violate tribal exclusivity for casino gaming, and tribes individually and collectively expend considerable resources every year beating back those attempts. Permitting Tohono O'odham to game on its Glendale property would greatly compromise tribal efforts to defeat future threats to our exclusivity. Every tribe in Arizona would be hurt should tribal exclusivity for gaming terminate.

### **Will lead to additional off-reservation casinos in Phoenix area**

Should gaming be permitted at the Glendale property, nothing would prevent Tohono O'odham from gaming on other lands it purchases (or may have already purchased) under the Gila Bend Act. Since Tohono O'odham's two Tucson casinos are on the same side of town, hence somewhat redundant, and its casino near Why, Arizona is financially marginal, we believe it is likely that Tohono O'odham would seek to replace two of those facilities with two additional casinos in the Phoenix area, further magnifying the many negative impacts that will result from a casino in Glendale.



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We appreciate the opportunity to share our concerns with you. These concerns are shared by a majority of the tribes in Arizona, and we hope the Committee will expeditiously schedule a hearing on H 1410, a measure that overwhelmingly passed the House and provides what may be the last, best chance to prevent a very troubling scenario from playing out.

Thank you for your support.

Sincerely,

**FORT MCDOWELL YAVAPAI NATION**

A handwritten signature in cursive script, appearing to read "Ruben Balderas".

Ruben Balderas  
President

cc: The Honorable John McCain  
The Honorable Jeff Flake